

OPEN MEETING ITEM



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COMMISSIONERS
MIKE GLEASON - Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

DATE: APRIL 27, 2007

DOCKET NO: C-00000A-06-0798

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

VARIOUS COMPANIES
(FAILURE TO FILE 2004 ANNUAL REPORTS)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

MAY 7, 2007

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

TO BE DETERMINED

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

Arizona Corporation Commission
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 MIKE GLEASON - Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE COMMISSION ON ITS
9 OWN MOTION INVESTIGATING THE FAILURE
10 OF NUMEROUS UTILITIES TO FILE ANNUAL
11 REPORTS FOR CALENDAR YEAR 2004.

DOCKET NO. C-00000A-06-0798

DECISION NO. _____

OPINION AND ORDER

12 DATE OF HEARING: March 28, 2007

13 PLACE OF HEARING: Phoenix, Arizona

14 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey¹

15 APPEARANCES: Mr. Charles Haines, Staff Attorney, Legal Division on
16 behalf of the Utilities Division of the Arizona
17 Corporation Commission.

18 **BY THE COMMISSION:**

19 On January 19, 2007, the Arizona Corporation Commission ("Commission") issued Decision
20 No. 69237, a Complaint ("Complaint") and Order to Show Cause ("OSC") against the following
21 named Respondents² for failing to file their 2004 Utilities Division Annual Reports ("Annual
22 Reports"):

23 <u>DOCKET NO.</u>	24 <u>COMPANY</u>
25 T-04158A	Better World Telecom
26 T-03171A	Caltech International Telecom Corporation
27 T-04184A	Christian Media Technologies, Inc.
28 T-03118A	Comdata Telecommunications Services, Inc.
T-04024A	Dimensions (Global Crest)
T-03311A	Discount Network Services, Inc.
T-03834A	D-Tel Communications
T-04177A	Fox Communications Corporation

¹ This matter was heard by Administrative Law Judge Teena Wolfe.

² The named Respondents shall hereinafter be referred to as the Non-Filing Respondents.

1	T-04134A	Global Communications Consulting Corp.
	T-04016A	Globcom, Inc.
2	T-04212A	Harbor Communications, LLC
	T-04160A	Hello Telecom
3	T-03927A	Home Phone, Inc.
	W-03745A	Jake's Corner Water System
4	W-02651A	Juniper Wells Water Company, Inc.
	W-01557A	Lake Verde Water Company
5	T-03996A	Lucas Telecommunications
	T-04182A	Mercury Long Distance, Inc.
6	T-04181A	Miko Telephone Communications, Inc.
	W-02164A	Morristown Water Company
	T-04186A	Motion Telecom, Inc.
8	W-02105A	Mount Tipton Water Co., Inc.
	W-04069A	Oatman Water Company, L.L.C.
9	T-04041A	Optical Telephone Corporation
10	T-03126A	Phase 2 Telesystems, Inc.
	T-03971A	Premiere Network Services, Inc.
11	T-04153A	Primo Communications, Inc.
	T-03844A	Promisevision Technology, Inc.
12	T-03127A	Quintelco, Inc.
	T-03855A	R.C.P. Services
13	T-04142A	Radiant Telecom, Inc.
	T-04023A	Rural West – Western Rural Broadband, Inc.
14	E-03795A	Southwest Energy Solutions, Inc.
	T-03761A	Teligent Services, Inc.
15	T-03719A	The Free Network, L.L.C.
16	W-02682A	Tierra Linda Homeowners Association
	T-03232A	Transcommunications, Inc.
17	W-03230A	Twin Hawks Utility, Inc.
	T-03849A	United Communications Hub, Inc.
18	T-03183A	Urban Telecommunications, Inc.
	T-02722A	US Watts, Inc.
19	T-03981A	Zephion Networks Communications, Inc.
20		

21 Therein, the Commission ordered a hearing to be conducted at a date and time set by the
 22 Hearing Division.

23 On February 7, 2007, by Procedural Order, a pre-hearing conference was scheduled on the
 24 Complaint against the above-named Non-Filing Respondents. The Commission's Utilities Division
 25 ("Staff") was ordered to file a memorandum to indicate which, if any, Non-Filing Respondents filed
 26 their 2004 Annual Reports subsequent to Decision No. 69237, so they could be dismissed from the
 27 proceeding.

28 On February 22, 2007, a pre-hearing conference was held at the Commission's offices in

1 Phoenix, Arizona. Staff appeared through counsel. No appearances were entered by any of the Non-
2 Filing Respondents.

3 Between February 8, 2007 and February 23, 2007, Staff filed its Memorandums indicating
4 that various utilities had filed their 2004 Annual Reports and requesting that they be dismissed from
5 the proceeding.

6 On February 27, 2007, by Procedural Order, the hearing in this matter was scheduled to
7 convene on March 28, 2007.

8 On March 28, 2007, a full public hearing was held by the Commission at its offices in
9 Phoenix, Arizona before a duly authorized Administrative Law Judge of the Commission. Staff
10 appeared through counsel. No other parties named in the proceeding appeared. At the conclusion of
11 the hearing, the matter was taken under advisement pending submission of a Recommended Opinion
12 and Order to the Commission.

13 * * * * *

14 Having considered the entire record herein and being fully advised in the premises, the
15 Commission finds, concludes, and orders that:

16 **FINDINGS OF FACT**

17 1. Pursuant to authority granted by the Commission, the Non-Filing Respondents were
18 authorized to conduct business at various times in Arizona as public utilities.

19 2. On January 19, 2007, the Commission issued Decision No. 69237, a Complaint and
20 Order to Show Cause against the Non-Filing Respondents described above due to their failure to file
21 their 2004 Annual Reports.

22 3. On March 19, 2007, Staff filed a Memorandum which Staff's witness, Ms. Kimberly
23 Battista, the Chief of Compliance, testified to at hearing, that Better World Telecom; Harbor
24 Communications, LLC; Jake's Corner Water System; Morristown Water Company; Mount Tipton
25 Water Company, Inc.; Oatman Water Company, LLC; and Twin Hawks Utility, Inc., had filed their
26 2004 Annual Reports and should be dismissed from the proceeding.³

27

28 ³ These Respondents are hereinafter known as the Late-Filing Respondents.

1 4. Southwest Energy Solutions, Inc., should be dismissed from this proceeding based on
2 Staff's belief that the Phelps Dodge Decision⁴ invalidated its Certificate of Convenience and
3 Necessity ("CC&N" or "Certificate").

4 5. Ms. Battista further testified that a number of utilities have filed applications to cancel
5 their Certificates and therefore should be dismissed from this proceeding. Those utilities are: D-Tel
6 Communications; Harbor Communications, LLC; Motion Telecom, Inc.; Rural West-Western Rural
7 Broadband, Inc.; and Teligent Services, Inc.⁵

8 6. Notice of the proceeding was given in the manner prescribed by law.

9 7. A number of the Procedural Orders which contained the notice of the proceeding's
10 pre-hearing conference and the hearing that were mailed to the Non-Filing Respondents' last known
11 address were returned to the Commission with notations such as "return to sender, no forwarding
12 order on file", "moved, left no address, unable to forward", and "forwarding order expired". Those
13 Non-Filing Respondents included: US Watts Inc.; The Free Network, LLC; Zephion Networks
14 Communications, Inc.; RCP Services; Promisevision Technology, Inc.; Premiere Network Services,
15 Inc.; Miko Telephone Communications, Inc.; Juniper Wells Water Company, Inc.; Lucas
16 Telecommunications; Home Phone, Inc.; Hello Telecom; Globcom, Inc.; Global Communications
17 Consulting Corp.; Discount Network Services, Inc.; Dimensions (Global Crest); Caltech International
18 Telecom Corp; and Christian Media Technologies, Inc.

19 8. Ms. Battista testified that the Complaint had been filed because the various utility
20 companies and/or entities described above as the Non-Filing Respondents had failed to file their 2004
21 Annual Reports.

22 9. Ms. Battista indicated that the Commission sent out delinquent notices to all of the
23 above-referenced utilities and/or entities to advise them that they had failed to file their 2004 Annual
24 Reports. Following the mailing of the delinquent notices, personal phone calls to each of the utilities
25 along with follow-up phone calls were made in an attempt to secure compliance with the requirement
26 that the utilities file their 2004 Annual Reports. Since there was continued non-compliance, the
27

28 ⁴ Phelps Dodge Corp. v. Arizona Elec. Power Coop., 207 Ariz. 95, 83 P.3d 573 (Ariz.App.Div. 1, 2004).

⁵ These Respondents are hereinafter known as the Cancellation Respondents.

1 Complaint was prepared and filed.

2 10. Ms. Battista testified that there are two water companies named in the Complaint,
3 Tierra Linda Homeowners Association and Juniper Wells Water Company, that are not currently
4 providing service in Arizona. Ms. Battista also stated that, with the exception of Globcom, Inc., she
5 believed that none of the other entities were still in existence. Therefore, Staff believes that imposing
6 sanctions on the non-existent entities would not serve any purpose.

7 11. In regards to Globcom, Inc., Ms. Battista testified that Staff found evidence that the
8 company may be still in existence and that the Federal Communications Commission ("FCC") had
9 recently imposed a large fine against Globcom, Inc., for failure to contribute to the Universal Service
10 Fund and the telecommunications relay service (FCC Decision No. 06-49). Ms. Battista further
11 testified that she called the customer service line for Globcom, Inc., and the customer service
12 representative hung up on her twice, but that it appeared that Globcom, Inc., was still providing
13 service in Arizona. Ms. Battista recommended that the Commission impose the maximum fine
14 allowable by statute against Globcom, Inc.

15 12. In Decision No. 69342 (February 13, 2007) Transcommunications, Inc.'s CC&N was
16 cancelled, and therefore Transcommunications, Inc., should be dismissed from this proceeding.

17 13. Staff recommends that the Certificates of the Non-Filing Respondents, which have
18 failed to file their 2004 Annual Reports and/or failed to advise the Commission of their proper
19 mailing addresses be revoked.

20 14. Based upon our review of the record, we believe that Staff's recommendation with
21 respect to the Late-Filing Respondents is appropriate and they should be dismissed from this
22 proceeding. With respect to the above-described Non-Filing Respondents, we find Staff
23 recommendation that their Certificates be revoked reasonable. In addition, we adopt Staff's
24 recommendation to assess against Globcom, Inc., the maximum penalty pursuant to A.R.S. §§ 40-424
25 and 40-425 of \$5,000, based on Staff's assessment that Globcom, Inc. is still doing business in
26 Arizona and has failed to file its 2004 Annual Report.

27 15. We further find that Staff's recommendation to dismiss the Cancellation Respondents
28 from this proceeding is reasonable and should be adopted.

CONCLUSIONS OF LAW

1
2 1. The above-referenced Non-Filing Respondents are public service corporations within
3 the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

4 2. The Commission has jurisdiction over the Non-Filing Respondents and of the subject
5 matter of the Complaint herein.

6 3. The revocation of the Certificates of the remaining Non-Filing Respondents as
7 described below would benefit the public interest.

8 4. The Complaint against the Late-Filing Respondents Better World Telecom; Harbor
9 Communications, LLC; Jake's Corner Water System; Lake Verde Water Company; Morristown
10 Water Company; Mount Tipton Water Company, Inc.; Oatman Water Company, LLC; and Twin
11 Hawks Utility, Inc., should be dismissed.

12 5. The Complaint against the Cancellation Respondents D-Tel Communications; Harbor
13 Communications, LLC; Motion Telecom, Inc.; Rural West- Western Rural Broadband, Inc.; and
14 Teligent Services, Inc., should be dismissed.

15 6. Southwest Energy Solutions, Inc., should be dismissed from this proceeding.

16 7. Commission Decision No. 69342 (February 13, 2007) cancelled the CC&N of
17 Transcommunications, Inc., and it should be dismissed from this proceeding.

18 8. Pursuant to A.R.S. §§ 40-424 and 40-425, Globcom, Inc., should be assessed financial
19 penalties.

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ORDER

IT IS THEREFORE ORDERED that the Certificates of Convenience and Necessity for the following Non-Filing Respondents and the authorizations granted therein are hereby revoked.

<u>DOCKET NO.</u>	<u>COMPANY</u>
T-03171A	Caltech International Telecom Corporation
T-04184A	Christian Media Technologies, Inc.
T-03118A	Comdata Telecommunications Services, Inc.
T-04024A	Dimension (Global Crest)
T-03311A	Discount Network Services, Inc.
T-04177A	Fox Communications Corporation
T-04134A	Global Communications Consulting Corp.
T-04016A	Globcom, Inc.
T-04160A	Hello Telecom
T-03927A	Home Phone, Inc.
W-02651A	Juniper Wells Water Company, Inc.
T-03996A	Lucas Telecommunications
T-04182A	Mercury Long Distance, Inc.
T-04181A	Miko Telephone Communications, Inc.
T-04041A	Optical Telephone Corporation
T-03126A	Phase 2 Telesystems, Inc.
T-03971A	Premiere Network Services, Inc.
T-04153A	Primo Communications, Inc.
T-03844A	Promisevision Technology, Inc.
T-03127A	Quintelco, Inc.
T-03855A	R.C.P. Services
T-04142A	Radiant Telecom, Inc.
T-03719A	The Free Network, L.L.C.
W-02682A	Tierra Linda Homeowners Association
T-03849A	United Communications Hub, Inc.
T-03183A	Urban Telecommunications, Inc.
T-02722A	US Wats, Inc.
T-03981A	Zephion Networks Communications, Inc.

IT IS FURTHER ORDERED that the Complaint against Southwest Energy Solutions, Inc.; Transcommunications, Inc.; Better World Telecom; Harbor Communications, LLC; Jake's Corner Water System; Lake Verde Water Company; Morristown Water Company; Mount Tipton Water Company, Inc.; Oatman Water Company, LLC; and Twin Hawks Utility, Inc., is hereby dismissed.

...

1 IT IS FURTHER ORDERED that the Complaint against D-Tel Communications; Harbor
 2 Communications, LLC; Motion Telecom, Inc.; Rural West-Western Rural Broadband, Inc.; and
 3 Teligent Services, Inc., is hereby dismissed.

4 IT IS FURTHER ORDERED that pursuant to A.R.S. §§ 40-424 and 40-425 Globcom, Inc.,
 5 shall be penalized the sum of \$ 5,000 for failure to file its 2004 Annual Report.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
 8
 9

10 CHAIRMAN

COMMISSIONER

11
 12 COMMISSIONER

COMMISSIONER

COMMISSIONER

13
 14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
 15 Director of the Arizona Corporation Commission, have
 16 hereunto set my hand and caused the official seal of the
 Commission to be affixed at the Capitol, in the City of Phoenix,
 this ____ day of _____, 2007.

17
 18 BRIAN C. McNEIL
 EXECUTIVE DIRECTOR

19
 20 DISSENT _____

21
 22 DISSENT _____
 YBK:db

1 SERVICE LIST FOR:

2 DOCKET NO.:

3 Better World Telecom
 4 11951 Freedom Drive, 13th Floor
 Reston, VA 20190

5 Call Tech International Telecom Corp.
 6 P.O. Box 837
 San Ramon, CA 94583

7 Christian Media Technologies, Inc.
 6715 N.E. 63rd St., Ste. 103
 8 Vancouver, WA 99551-2099

9 Comdata Telecommunications Services, Inc.
 5301 Maryland Way
 10 Brentwood, TN 37027

11 Dimensions (Global Crest)
 12550 Biscayne Blvd., Ste. 703
 12 North Miami, FL 33181

13 Discount Network Services, Inc.
 23750 Elmira, Ste., 202
 14 Redford, MI 48239

15 D-Tel Communications
 12313 S. Wilmington Avenue
 Compton, CA 90222

16 Fox Communication Corporation
 17 2001 6th Avenue, Ste., 3302
 Seattle, WA 98121

18 Global Communications Consulting Corp.
 19 1371 Longacre Lane
 Wheeling, IL 60090-5931

20 Globcom, Inc.
 21 2100 Sanders Rd., Ste. 150
 Northbrook, IL 60062

22 Harbor Communications, LLC
 23 3211 SW Scholls Ferry Ct
 Portland, OR 97221

24 Hello Telecom
 25 255 South Orem Boulevard
 Orem, UT 84058

26 Home Phone, Inc.
 1095 Home Avenue
 27 Akron, OH 44310

28 ...

NUMEROUS UTILITIES

C-00000A-06-0798

Jake's Corner Water System
 HC6 Box 1048 H
 Payson, AZ 85541

Juniper Wells Water Company, Inc.
 300 N. Lynx Creek Road
 Prescott, AZ 86306

Lake Verde Water Company, Inc.
 P.O. Box 2777
 Camp Verde, AZ 86322

Lucas Telecommunications
 P.O. Box 992
 Gilbert, AZ 85299

Mercury Long Distance, Inc.
 2288 Gunbarrel Rd., Ste. 111-269
 Chattanooga, TN 37421

Miko Telephone Communications, Inc.
 2100 SouthBridge Parkway, Suite 650
 Birmingham, AL 35209

Morristown Water Company
 P.O. Box 156
 Morristown, AZ 85342

Motion Telecom, Inc.
 7101 S. Fulton Street, Ste. 200
 Englewood, CO 80112

Mount Tipton Water Co., Inc.
 P.O. Box 38
 Dolan Springs, AZ 86441

Oatman Water Company, LLC
 9184 N. 81st Street
 Scottsdale, AZ 85258

Optical Telephone Corporation
 885 Woodstock Rd., Ste. 430
 Roswell, GA 30075

Phase 2 Telesystems, Inc.
 8901 E. Raintree #100
 Scottsdale, AZ 85260

Premiere Network Services, Inc.
 500 N. Akard St., Ste. 2980
 Dallas, TX 75201-5504

...

1 Primo Communications, Inc.
617 Birch Tree Court
2 Rochester Hills, MI 48306

3 Promisevision Technology, Inc.
3140 W. Britton Road, Ste. 200
4 Oklahoma City, OK 73120

5 Quintelco, Inc.
1 Blue Hill Plaza
6 PO Box 1665
Pearl River, NY 10965

7 R.C.P. Services
Verizon Avenue Corp.
8 12901 Worldgate Dr., Ste. 800
9 Herndon, VA 20170-5014

10 Radiant Telecom, Inc.
1020 NW 163 Drive
Miami, FL 33169

11 Rural West – Western Rural Broadband, Inc.
12 2312 104th Ave. SE
Bellevue, WA 98004

13 Southwest Energy Solutions, Inc.
14 1 S. Church, 18th Fl.
Tucson, AZ 85701

15 Teligent Services, Inc.
16 460 Herndon Parkway, Suite 100
Herndon, VA 20170

17 The Free Network, LLC
18 1607 E. Big Beaver Road, Ste. 201
Troy, MI 48083

19 Tierra Linda Homeowners Association
20 14305 Blue Spruce Court
Orland Park, IL 60462

21 Transcommunications, Inc.
22 6125 Preservation Drive
Chattanooga, TN 37416

23 Twin Hawks Utility, Inc.
432 E. Speedway
24 Tucson, AZ 85705

25 United Communications Hub, Inc.
10390 Commerce Center Drive, Suite 250
26 Rancho Cucamonga, CA 91730

27 Urban Telecommunications Inc.
1220 W. Alameda, Ste. 126
28 Tempe, AZ 85281

US Watts, Inc.
2 Greenwood Square
3331 Street Rd Ste. 275
Bensalem, PA 19020

Zephion Networks Communications, Inc.
2950 Gallows Rd.
Falls Church, VA 22042

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